

To: Robert Law[rlaw@demaximis.com]
Cc: Willard Potter[otto@demaximis.com]; Basso, Ray[Basso.Ray@epa.gov]; Sivak, Michael[Sivak.Michael@epa.gov]; William Hyatt[william.hyatt@klgates.com]; Flanagan, Sarah[Flanagan.Sarah@epa.gov]
From: LaPoma, Jennifer
Sent: Thur 7/14/2016 5:14:57 PM
Subject: RE: LPRSA - Revised Draft BERA

Thank you for your email dated July 11th, which included a note stating that CPG would submit the revised draft BERA by October 1, 2016. We acknowledge receipt of that email. However, it is unclear why the 30 day due date (August 8th) as stated in my July 7th email was not acknowledged.

Based on your July 11th email, it is unclear whether the forthcoming letter you referenced will include a request for an alternative submission date for EPA's review and consideration. If that is the case, please provide justification in that letter as to why CPG would require such an extension.

With respect to the second bullet in your email regarding my June 20th email to you regarding carp, the referenced email addresses EPA's clarification to RI Comment 179. There has been no direction provided to CPG to deviate from the December 22nd, 2015 response to comments (RTC). As discussed in Stephanie Vaughn's December 22nd 2015 email which transmitted the BERA RTC, EPA's comments must be incorporated appropriately; if they are not, the document will not be approvable and EPA will proceed as per Paragraph 44 of the AOC. This message was also previously relayed in a May 1, 2015 email from Stephanie Vaughn to you where she cautioned that if the next draft of the BERA document is as deficient as the first, then EPA may elect to modify the document itself pursuant to Paragraph 44 of the AOC, and, as per Paragraph 47 of the AOC, the CPG would be required to accept the findings of the modified report (subject to dispute resolution). Stephanie asked that the May 1st message was kept in mind when CPG reviewed the December 22nd, 2015 response to comments.

Thank you,

Jennifer LaPoma

From: Robert Law [mailto:rlaw@demaximis.com]
Sent: Monday, July 11, 2016 9:55 AM

To: LaPoma, Jennifer <LaPoma.Jennifer@epa.gov>

Cc: Willard Potter <otto@demaximis.com>; Basso, Ray <Basso.Ray@epa.gov>; Sivak, Michael <Sivak.Michael@epa.gov>; William Hyatt <william.hyatt@klgates.com>

Subject: Re: LPRSA - Revised Draft BERA

Jennifer:

The CPG acknowledges receipt of your July 7 email. As we discussed during our call on July 6, the CPG has:

- completed its review of the additional data that were provided by Region 2 on June 6 and was not previously available to the CPG; the CPG will include these data in the revised 17-mile BERA
- been reviewing the June 20 email regarding common carp in the revised BERA and as we discussed the CPG does not believe that the Region's recent information resolve the ambiguity of the Region's previous statements and comments regarding the presentation and use of common carp data in the revised BERA.

The CPG is planning to deliver a revised 17-mile BERA on October 1. I also told you that the CPG is drafting a letter that discusses all 3 items and will forward when the CPG's review is complete. I also suggested that Michael and you should consider having a discussion with Bill Potter and me following receipt of the CPG's letter.

Please contact Bill Potter or me with any questions.

Thank you.

Robert Law, Ph.D.

de maximis, inc.

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>>> "LaPoma, Jennifer" <LaPoma.Jennifer@epa.gov> 7/7/2016 8:49 AM >>>

Rob,

In a June 6, 2016 email, EPA provided follow up to the CPG regarding the EPA Region 2 Sediment Quality Triad methodology applied to reference areas above Dundee Dam, Jamaica Bay and Mullica River/Great Bay. In that June 6, 2016 email, I asked CPG to let me know if

they would like to discuss further or if there were any questions. As of the date of this email, I have not heard from CPG on the matter.

In accordance with Paragraph 46 of the Settlement Agreement, the Settling Parties shall submit the revised draft Baseline Ecological Risk Assessment no later than 30 days from the date of this email.

Jennifer LaPoma